The proposed rule contains a detailed summary of EPA's review of the petition to delete Na_2SO_4 as well as additional information on the petition process under section 313 of Title III of SARA.

As of April 26, 1989, EPA had received 32 comments on the proposed rule to delete Na_2SO_4. Thirty-one comments favoring the proposed deletion were received from industry, industry associations, and a Federal agency (the United States Departments of the Interior, Bureau of Mines). One comment opposing the deletion was received from the Miami Group of the Ohio Chapter of the Sierra Club.

The commenter contended that Na_2SO_4 is capable of harming or killing fish and wildlife but did not provide any evidence to support this statement. As discussed above, EPA conducted a petition review which included a toxicity evaluation of Na_2SO_4 and concluded that existing evidence does not demonstrate that Na_2SO_4 causes or can reasonably be anticipated to cause significant adverse health or environmental effects, including harm to fish and wildlife, as set forth in the listing criteria found in section 313(d). Details of this review can be found in the proposed rule.

The commenter also mentioned the large volume of Na_2SO_4 discharged, particularly to public sewer systems, and expressed a concern that these discharges could combine with other substances in the sewer system to create "an even greater threat" to the environment and the sewage treatment process. EPA's review of Na_2SO_4 included an assessment of the environmental fate of Na_2SO_4 following discharge to sewage treatment systems as well as directly to surface waters. Again, EPA found no evidence of significant toxicity of Na_2SO_4 and does not feel the chemical represents a significant threat to the environment or the sewage treatment process. The commenter did not provide any evidence or references to contradict this finding. EPA also notes that, in the absence of significant toxicity concerns, volume alone is not sufficient reason to list a chemical under section 313.

Finally, the commenter stated that communities should be able to track all toxic chemicals released into their environment, in order to allow the communities to make risk determinations themselves. EPA does not disagree with this comment. However, EPA reiterates that no evidence was found to demonstrate toxicity of Na_2SO_4 sufficient to meet the listing criteria under section 313.

Based upon an evaluation of the petition, available toxicity and exposure information, and the comments, EPA affirms its determination that Na_2SO_4 does not meet any of the listing criteria contained in section 313(d). Therefore, EPA is deleting Na_2SO_4 from the list of chemicals subject to reporting under section 313 of Title III of SARA. As a result of this action, facilities will not be required to report releases of Na_2SO_4 that occurred during the 1988 calendar year, and releases that will occur in the future.

II. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "major rule" because it will not have an effect on the economy of $100 million or more. This rule will decrease the impact of the section 313 reporting requirements on covered facilities and will result in cost-savings to industry, EPA, and States.

This rule was submitted to the Office of Management and Budget (OMB) under Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, EPA must conduct a small business analysis to determine whether a substantial number of small entities will be significantly affected. Because the rule will result in cost savings to facilities, EPA certifies that small entities will not be significantly affected by this rule.

C. Paperwork Reduction Act

This rule relieves facilities from having to collect information on the use and releases of Na_2SO_4. Therefore, there were no information collection requirements for OMB to review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 372

Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: June 9, 1989.

Victor J. Kimm,

Acting Assistant Administrator, Office of Pesticides and Toxic Substances.

Therefore, 40 CFR Part 372 is amended as follows:

PART 372—[AMENDED]

1. The authority citation for Part 372 continues to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. Section 372.65(a) and (b) are amended by removing the entire entry for sodium sulfate (solution) under paragraph (a) and removing the entire CAS No. entry for 7757–82–6 under paragraph (b).

[FR Doc. 89–14581 Filed 6–15–89; 4:57 pm]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

RIN 1004–AB46

43 CFR Parts 2800, 2810, 2880, 9230, and 9260

[AA–320–09–4211–02–NCPJ; Circular No. 2619]

Rights-of-way, Trespass, and Law Enforcement—Criminal; Amendment To Provide Procedures for Action on Unauthorized Use, Occupancy, or Development of Public Lands for Transportation etc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides procedures for addressing the unauthorized use, occupancy, or development of the public lands for uses and facilities that require authorization pursuant to Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761–1771), the Act of August 28, 1937 (43 U.S.C. 1181a and 1181b), or section 28 of the Mineral Leasing Act (30 U.S.C. 185). These procedures will enhance protection for public lands and resources from unauthorized use and assure a proper monetary return for use, occupancy, or development of the public lands and resources as well as provide a penalty for violation.

EFFECTIVE DATE: July 20, 1989.

ADDRESS: Inquiries or suggestions should be sent to: Director (320), Bureau of Land Management, U.S. Department of the Interior, 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Oscar Anderson, (202) 343–5441.

SUPPLEMENTARY INFORMATION: This rulemaking, which would provide procedures for addressing unauthorized use, occupancy, and development of the public lands for uses and facilities that require authorization pursuant to Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761–1771), the Act of August 28, 1937 (43 U.S.C. 1181a and 1181b), or Section 28 of the

Mineral Leasing Act (30 U.S.C. 185), was published as a proposed rulemaking in the Federal Register on September 26, 1988 (53 FR 37319), with a 60-day comment period. A notice of correction was published in the Federal Register on October 6, 1988 (53 FR 39403). During the comment period, nine comments were received, six from Federal agencies, one from an association of county governments, one from an individual and one from a public utility.

Part 2800—Definitions

Two comments suggested that the definition of trespass, as provided in the proposed rulemaking at 43 CFR 2800.0–5(u), be expanded to address uses allowed by prior statute. These suggestions are consistent with the Bureau's intent to safeguard uses allowed by prior statute, and the final rulemaking adopts the suggestions by expanding § 2800.0–5(u) to include uses allowed by prior statute.

One comment suggested that unnecessary and undue degradation be considered a trespass even when associated with a Revised Statute (RS) 2477 right-of-way or grant of easement to mining and settlement claims. The proposed definition provided in 43 CFR 2800.0–5(u) classifies all unnecessary and undue degradation as a trespass without excluding trespasses associated with an RS 2477 right-of-way or grant of easement to mining and settlement claims. The final rule is, therefore, unchanged.

One comment suggested that the proposed definition for "willful trespass" as defined in the proposed rulemaking and "knowing and willful" as defined in 43 CFR 2920 be consistent. Since it is our intent that these terms and their definitions be synonymous, the definition in 43 CFR 2920 will be revised when those regulations are amended.

One comment suggested that trespass should not be considered "willful" where it is "virtually impossible for a person to identify or locate the public lands." The Bureau believes such a situation would qualify as a trespass committed by "mistake or inadvertence," which is criteria for nonwillful trespass as proposed and therefore, the final rule is unchanged.

One comment recommend that a definition of "current use fee, amortization fee, and maintenance fee" be included in final rulemaking. The Bureau recognizes the value in this suggestion and therefore, a definition has been added in the final rule as § 2800.0–5(z).

Unauthorized Use, Occupancy or Development

One comment requested clarification as to whether penalties for unauthorized use, occupancy or development outlined in § 2801.3(c) are to be applied in addition to the actions identified in § 2801.3(b). The penalties are to be applied in addition to the actions identified in § 2801.3(b). 43 CFR 2801.3(b) lists the liabilities of anyone determined by the authorized officer to have trespassed as provided in § 2801.3(a). 43 CFR 2801.3(c) lists the penalties an authorized officer shall apply depending on whether the trespass is determined to be either willful, repeated nonwillful, or not resolved within 30 days after receipt of a written demand.

One comment suggested that 43 CFR 2801.3 (unauthorized use, occupancy or development) as proposed failed to recognize types of right-of-way trespass other than road use. Reference to other kinds of trespass, i.e., for uses requiring authorization pursuant to the regulations in 43 CFR 2800 and 2880, include all types of uses requiring rights-of-way or permits under Title V of the Federal Land Policy and Management Act and the Mineral Leasing Act, as amended. Therefore, the final rule is not changed as suggested.

One comment requested that the starting point of the 30-day period in § 2801.3(c)(1) be identified. The proposed rulemaking identifies the beginning of the 30 day period to be the date of receipt of a written demand. The Bureau recognizes the inherent ambiguity in the term "receipt of a written demand". Therefore, a definition of "written demand" is added as paragraph (y) under § 2800.0–5 and means a written demand in the form of a billing notice for payment of trespass liability which in no case will be less than the minimum amount as identified in § 2801.3(d) and will be delivered by certified mail, return receipt requested, or personally served.

Three comments suggested that the time period for which trespass damages are computed in the proposed rulemaking is inconsistent with 43 CFR 2920.1–2(b). Since the Bureau of Land Management is required by the FLPMA to receive fair market value for the use of the public lands and their resources for the period of use, the 6 year period is not included in the rulemaking.

Two comments recommended increasing the grace period (allowed for nonwillful trespass before assessing penalties) to 45 or 60 days after receipt of a written demand in order to provide adequate time for reaching an amicable settlement. One comment recommended deleting the requirement that penalties for a nonwillful trespass be assessed if the trespass is not resolved within the 30 day period. A definition of "written demand" has been added as § 2800.0–5(y) which will clarify at what time the 30 day period begins. The written demand is the culmination of fact finding meetings and investigation by field officials. The written demand is issued after the trespasser and the authorized officer have finished resolution meetings and the authorized officer has determined the amount of liability due the United States based upon information provided by the trespasser and facts provided from the trespass investigation. The trespasser has 30 days to pay the damages due as identified in the written demand; a penalty is applied if payment is not received within those 30 days. This penalty is provided to insure a timely final resolution to the trespass. Penalty is avoided when one of the three conditions in § 9239.7–1 of this title have been satisfied. Provisions are also allowed in item (c) of 43 CFR 9239.7–1 for the authorized officer to "determine in writing" that a legitimate dispute exists. The authorized officer therefore has the authority at any time prior to issuance of the written demand for payment to adjust liabilities and any time during the 30 day period to acknowledge a legitimate dispute to prevent the penalty assessment. Doubling the rental value as penalty for an excessive delay in resolution is also provided in 43 CFR 2920. Therefore, these comments were not adopted in the final rulemaking.

One comment stated that the proposed rulemaking did not provide for a timeframe to resolve repeated nonwillful or willful trespass. The "30 day" timeframe in the proposed rulemaking at § 2801.3(c)(1) is the measure of time after which penalties for nonwillful trespass are to be addressed for failure to satisfy liabilities by meeting one of the conditions in § 9239.7–1, not the time allowed to resolve a trespass. No specific time period is identified for total trespass investigation and resolution. A clarification is included in § 2801.3(c)(1) and 2800.0–5(y) of the final rulemaking.

One comment suggested allowing the discretionary increase of penalties by 3 to 5 times the rental or road use, amortization and maintenance charges when trespass is repeated. The proposed rulemaking provides for penalties on repeated trespass which we believe are adequate. The suggestion to provide discretionary authority to

increase the penalty for repeated trespass to 5 times the rental value is considered harsh, is inconsistent with existing 43 CFR 2920 regulations, and, therefore, is not adopted.

One comment suggested that the phrase "inception of trespass" in subparagraphs 2801.3(c)(1) and (2) could be interpreted to mean either the date the trespass began or the date a trespass was discovered and a case established. The Bureau believes that the term "inception of trespass" generally is understood to mean the date on which a trespass began (as can be proven by methods normally used in establishing a period in time, such as by photos, witnesses, evidence, admission, etc.). Therefore, the final rule is unchanged.

One comment suggested that the reimbursement of costs incurred by the United States in investigation and termination of a trespass be recovered by utilizing the fee schedule found in 43 CFR 2808.3 and 3808.4 to determine liability for administrative costs. As no trespass cases have been completed by which an average of administrative costs can be determined, the suggested average fee schedule cannot be used at this time. Actual costs determined by accurate record keeping will be needed until a determination can be made as to whether an average fee schedule is proper. Therefore, this suggestion is not adopted in the final rulemaking.

One comment suggested that the requirement of a minimum settlement fee as required in § 2801.3(e) of the proposed rulemaking would hinder resolving trespass and may cost more to collect than an amount which otherwise could be collected. The State Director presently has the authority, with concurrence of the Field Solicitor, to compromise or write off trespass liability up to $20,000 and to suspend collection action (write off) uncollectable trespass liability claims of up to $600. The FLPMA requires receipt of fair market value for use of public lands and resources unless otherwise provided for by statute such as in the Federal Claims Collection Standards. Collection of administrative costs has been upheld, see *Henry Deaton* (101 IBLA 177), and also is provided for in 43 CFR 2920 and 43 CFR 4150. Based upon studies conducted for right-of-way applications, processing a case costs, at a minimum, the amount identified for a Category I (all information contained in the office and no field trips involved) right-of-way application. In light of minimum right-of-way case processing costs and the State Director's authority to compromise or write off debts up to $20,000 for good cause, the concerns of this suggestion are met by existing mechanisms. The suggestion to eliminate the minimum fee requirement in the final rulemaking is not adopted.

One comment suggested that the term "other lands use request" as used in § 2801.3(e) be clarified. The authorities for the final rulemaking may be found at 43 U.S.C. 1181a, 1181b, 1733, 1740, 1761–1771 and 30 U.S.C. 185. These authorities include rights-of-way and permits under Title V of FLPMA, the Mineral Leasing Act, and Tram Roads on the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands (O&C). Lands actions which may be authorized by other authorities are not included in this final rulemaking, and no further explanation is required.

One comment suggested changing the wording in 43 CFR 2801.3(g) and 43 CFR 9262.1 to "knowing and willful trespassers shall be tried" before a United States Magistrate rather than "may be tried." The wording "may be tried" is consistent with wording in the Federal Land Policy and Management Act (43 U.S.C. 1733). Therefore, this suggestion is not adopted in the final rulemaking.

One comment suggested that public utilities providing service to parties accused of trespass be allowed to remain in service until the party receiving the services is legally judged to be in trespass. In the instance described, both the public utility and the party being served would be in trespass, i.e., the utility company is in trespass for service lines and the party served by the utility company is in trespass for the utilities to which the utility lines run. The utility and the party being served are legally judged to be in trespass only after the appeal period for a notice of trespass has expired without appeal, decision on appeal has been made, or the trespasser judged to be in trespass in court proceedings. The utility may file a use permit or right-of-way application requesting authorization to continue service pending the outcome of all appeals to satisfy any concern. Therefore, the suggested change is not adopted as no removal is required until a use, occupancy or development is considered a trespass in accordance with existing law.

One comment suggested that an authorized officer be able to resolve an unauthorized use, occupancy, or development through an amicable settlement, by giving the trespasser a grant for his unauthorized use and not require a formal trespass procedure. As stated previously, provisions are available which allow the State Director to compromise or write off debts of up to $20,000. This allows the flexibility suggested where cause exists. Also, without formal notice, a trespasser is not legally notified of his liability. Therefore, this suggestion is not adopted in the final rulemaking.

One comment suggested that a trespasser not be allowed to file a bond, conditioned upon payment of the damages due, as provided in § 9239.7–1 item (b) in order to be eligible for a new permit, license, authorization or grant. The rulemaking should allow new authorizations to any trespasser who has filed a bond to compensate the United States for outstanding trespass liabilities. The allowance provides for issuance of new authorizations pending payment of outstanding liabilities yet assures that the United States will recover just compensation. This provision will allow timely completion of multiple applications in progress. Additional penalties for willful trespass are provided in § 9262.1. Therefore, this suggestion is not included in the final rulemaking.

One comment suggested clarification of § 9239.7–1 (rights-of-way trespass on public lands) for the types of uses which shall not be allowed to a party with an unresolved trespass. Existing rules provide that no new right-of-way or permit under 43 CFR Parts 2800, 2810 or 2880 may be issued to a trespasser until one of the conditions identified in Section 9239.7–1 is met. Therefore, the final rulemaking is unchanged.

One comment suggested that the rule should be revised to delete from § 9239.7–1 the words "and received by the applicant." In most cases, it is difficult to determine when a letter has been received by the addressee. It is not unusual for weeks to pass before proof of delivery has been received by the Bureau. Therefore, the final rule is changed to state that the grant takes effect on the date of the authorized officer's signature.

Part 9260—Law Enforcement—Criminal

One comment asked whether a trial before a United States Magistrate as specified in 43 CFR Part 9262–1 and provision for fine and/or imprisonment are pursued in addition to rent and other charges imposed under § 2801.3. Criminal penalties are applied in addition to civil penalties, where the trespasser is convicted in a criminal prosecution. Such prosecution may be brought independently of civil damage recovery proceedings.

The principal author of this final rulemaking is Oscar Anderson, Division of Lands and Realty, Bureau of Land

Management, assisted by the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this final rulemaking will not have an effect upon the legitimate users of the public lands and resources. The changes made by the final rulemaking will provide procedures for processing cases involving instances of illegal use of the public lands for rights-of-way and road use purposes, for recovering fair market value of the use of public lands and resources for right-of-way and road use purposes, for providing penalties for repeated and willful illegal use, for recovering adminstrative costs for processing these cases, and for rehabilitation costs of public lands and resources damaged through illegal use. The impact of the final rulemaking will be the same, regardless of the size of the entity involved in an illegal use.

The rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

For the reasons set out above, 43 CFR Parts 2800, 2810, 2880, 9230, 9260 are amended as set forth below:

James M. Hughes,

Deputy Assistant Secretary of the Interior.

May 25, 1989.

PART 2800—RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

1. The authority citation for Part 2800 is revised to read:

Authority: 43 U.S.C. 1733, 1740, and 1761–1771.

2. Section 2800.0–3 is revised to read:

§ 2800.0–3 Authority.

Sections 303, 310, and 501–511 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733, 1761–1771) authorize the Secretary of the Interior to issue regulations providing for the use, occupancy, and development of the public lands through permits, easements, and rights-of-way.

3. Section 2800.0–5 is amended by adding the definition of "trespass" as subparagraph (u), "willful trespass" as subparagraph (v), "nonwillful trespass" as subparagraph (w), and "unnecessary or undue degradation" as subparagraph (x), "written demand" as (y) and "road use, amortization and maintenance" as (z).

§ 2800.0–5 Definitions.

* * * * *

(u) "Trespass" means any use, occupancy or development of the public lands or their resources without authorization to do so from the United States where authorization is required, or which exceeds such authorization or which causes unnecessary or undue degradation of the land or resources.

(v) "Willful trespass" means the voluntary or conscious trespass as defined at § 2801 of this title. The term does not include an act made by mistake or inadvertence. The term includes actions taken with criminal or malicious intent. A consistent pattern of trespass may be sufficient to establish the knowing or willful nature of the conduct, where such consistent pattern is neither the result of mistake or inadvertence. Conduct which is otherwise regarded as being knowing or willful does not become innocent through the belief that the conduct is reasonable or legal.

(w) "Nonwillful trespass" means a trespass, as defined at § 2801.3(a) of this title, committed by mistake or inadvertence.

(x) "Unnecessary or undue degradation" means surface disturbance greater than that which would normally result when the same or a similar activity is being accomplished by a prudent person in a usual, customary, and proficient manner that takes into consideration the effects of the activity on other resources and land uses, including those resources and uses outside the area of activity. This disturbance may be either nonwillful or willful as described in § 2800.0–5(v) through (w), depending upon the "circumstances",

(y) "written demand" means a request in writing for payment and/or rehabilitation in the form of a billing delivered by certified mail, return receipt requested or personally served.

(z) "road use, amortization and maintenance charges" means the fees charged for commercial use of a road owned or controlled by the Bureau of Land Management. These fees normally include use fees, amortization fees and maintenance fees.

4. Section 2801.3 is revised to read:

§ 2801.3 Unauthorized use, occupancy, or development.

(a) Any use, occupancy, or development of the public lands that requires a right-of-way, temporary use permit, or other authorization pursuant to the regulations of that part and that has not been so authorized, or that is beyond the scope and specific limitations of such an authorization, or that causes unnecessary or undue degradation, is prohibited and shall constitute a trespass as defined in Section 2800.0–5.

(b) Anyone determined by the authorized officer to be in violation of paragraph (a) of this section shall be notified in writing of such trespass and shall be liable to the United States for:

(1) Reimbursement of all costs incurred by the United States in the investigation and termination of such trespass;

(2) The rental value of the lands, as provided for in § 2803.1–2 of this title, for the current year and past years of trespass, or where applicable, the cumulative value of the current use fee, amortization fee, and maintenance fee as determined by the authorized officer for unauthorized use of any road administered by the BLM; and

(3) Rehabilitating and stabilizing any lands that were harmed by such trespass. If the trespasser does not rehabilitate and stabilize the lands within the time set by the authorized officer in the notice, he/she shall be liable for the costs incurred by the United States in rehabilitating and stabilizing such lands.

(c) In addition to amounts due under the provisions of paragraph (b) of this section, the following penalties shall be assessed by the authorized officer:

(1) For all nonwillful trespass which is not resolved by meeting one of the conditions identified in § 9239.7–1 within 30 days of receipt of a written demand under paragraph (b) of this section—an amount equal to the rental value and for roads, an amount equal to the charges for road use, amortization and maintenance which have accrued since the inception of the trespass;

(2) For repeated nonwillful or willful trespass—an amount that is 2 times the rental value and for roads, an amount 2 times the charges for road use, amortization and maintenance which have accrued since the inception of the trespass.

(d) In no event shall settlement for trespass computed pursuant to paragraphs (b) and (c) of this section be less than the processing fee for a Category I application for provided for in § 2808.3–1 of this title for nonwillful

trespass or less than 3 times this value for repeated nonwillful or knowing and willfull trespass. In all cases the trespasser shall pay whichever is the higher of the computed penalty or minimum penalty amount.

(e) Failure to satisfy the requirements of § 2801.3(b) of this title shall result in the denial of any right-of-way, temporary land use, road use application or other lands use request filed by not yet granted until there has been compliance with the provisions of § 9239.7–1 of this title.

(f) Any person adversely affected by a decision of the authorized officer issued under this section may appeal that decision under the provisions of Part 4 of this title.

(g) In addition to the civil penalties provided for in this part, any person who knowingly and willfully violates the provisions of § 2801.3(a) of this title may be tried before a United States magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both, as provided by section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and § 9262.1 of this title.

PART 2810—TRAMROADS AND LOGGING ROADS

1. The authority citation for Part 2810 is revised to read:

Authority: 43 U.S.C. 1181a, 1181b, 1732, 1733, and 1740.

2. Section 2812.0–3 is revised to read:

§ 2812.0–3 Authority.

Sections 303 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1740), and the Act of August 28, 1937 (43 U.S.C. 1181a and 1181b), provide for the conservation and management of the Oregon and California Railroad lands and the Coos Bay Wagon Road lands and authorize the Secretary of the Interior to issue regulations providing for the use, occupancy, and development of the public lands through permits and rights-of-way.

3. Section 2812.1–3 is revised to read:

§ 2812.1–3 Unauthorized use, occupancy, or development.

Any use, occupancy, or development of the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands (O & C) lands (as is defined in 43 CFR 2812.0–5(e)), for tramroads without an authorization pursuant to this subpart, or which is beyond the scope and specific limitations of such an authorization, or that cause unnecessary or undue degradation, is prohibited and shall constitute a trespass as defined in § 2800.0–5. Anyone determined by the authorized officer to be in violation of this section shall be notified of such trespass in writing and shall be liable to the United States for all costs and payments determined in the same manner as set forth at § 2801.3, Part 2800 of this title.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERALS LEASING ACT

1. The authority citation for Part 2880 is revised as follows:

Authority: 30 U.S.C. 185, Section 28, unless otherwise noted.

2. Section 2881.3 is revised to read:

§ 2881.3 Unauthorized use, occupancy or development.

Any use, occupancy, or development of the public lands that requires a right-of-way, temporary use permit, or other authorization pursuant to the regulations in this part, and that has not been so authorized, or that is beyond the scope and specific limitations of such authorization, or that causes unnecessary or undue degradation, is prohibited and shall constitute a trespass as defined in § 2800.0–5. Anyone determined by the authorized officer to be in trespass on the public lands shall be notified in writing of such trespass and shall be liable to the United States for all costs and payments determined in the same manner as set forth at § 2801.3, Part 2800 of this title.

PART 9230—TRESPASS

1. The authority citation for Part 9230 is revised to read:

Authority: 43 U.S.C. 1732, 1733, 1740, and 1761–1771.

2. Section 9239.7–1 is revised to read:

§ 9239.7–1 Public lands.

The filing of an application under Part 2800, 2810, or 2880, of this chaper does not authorize the applicant to use or occupy the public lands for right-of-way purposes, except as provided at §§ 2800.0–5(m), 2802.1(d) and 2882.1, until written authorization has been issued by the authorized officer. Any unauthorized occupancy or use of public lands or improvements for right-of-way purposes constitutes a trespass against the United States for which the trespasser is liable for costs, damages, and penalties as provided in §§ 2801.3, 2812.1–3, and 2881.3, of this title. No new permit, license, authorization or grant of any kind shall be issued to a trespasser until:

(a) The trespass claim is fully satisfied; or

(b) The trespasser files a bond conditioned upon payment of the amount of damages determined to be due the United States; or

(c) The authorized officer determines in writing that there is a legitimate dispute as to the fact of the trespasser's liability or as to the extent of his liability and the trespasser files a bond in an amount determined by the authorized officer to be sufficient to cover payment of a future court judgment in favor of the United States.

PART 9260—LAW ENFORCEMENT—CRIMINAL

The authority citation for Part 9260 is revised to read:

Authority: 16 U.S.C. 433; 16 U.S.C. 4601–6a; 16 U.S.C. 670j; 16 U.S.C. 1246(i); 16 U.S.C. 1338; 18 U.S.C. 1851–1861; 43 U.S.C. 315(a); 43 U.S.C. 1061, 1063; 43 U.S.C. 1733.

2. Subpart 9262 is revised to read:

§ 9262.0 Authority.

43 U.S.C. 1732, 1733, 1740, 1761–1771.

§ 9262.1 Penalties for unauthorized use, occupancy, or development of public lands.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) any person who knowingly and willfully violates the provisions of §§ 2801.3(a), 2812.1–3, 2881.3, or 2920.1–2(a) of this title, by using public lands without the requisite authorization, may be tried before a United States magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both.

[FR Doc. 89–14561 Filed 6–19–89; 8:45 am]
BILLING CODE 4310–84–M

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43 CFR Public Land Order 6730

[CO–930–09–4214–10; C–45714]

Withdrawal of National Forest System Land for Protection of Recreational Values; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 374 acres of National Forest System lands from mining for a period of 50 years for the protection of existing and planned recreational facilities near Aspen, Colorado. The lands have been and remain open to such other forms of disposition as may by law be made of National Forest System Lands and to mineral leasing.

EFFECTIVE DATE: June 20, 1989.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–236–1768.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2) to protect existing and planned recreational values which are a part of the Aspen Mountain Ski Area:

Sixth Principal Meridian

White River National Forest

T. 10 S., R. 84 W.,
- Sec. 18, S½SE¼NW¼NW¼, SW¼NW¼, W½SW¼, and W½E½SW¼, excluding patented lands;
- Sec. 19, W½E½W½, W½W½, W½SE¼ NE¼NW¼, W½E½SE¼NW¼, E½E½ SW¼, W½SW¼NW¼SE¼, W½NW¼ SW¼SE¼, and SW¼SW¼SE¼, excluding patented lands;
- Sec. 30, W½W½NE¼, W½E½SW¼NE¼, NW¼, N½N½NE¼SW¼, SW¼NW¼ NE¼SW¼, SW¼NE¼NE¼SW¼, N½ NE¼NW¼SW¼, and N½NW¼NW¼ SE¼, excluding patented lands.

T. 10 S., R. 85 W.,
- Sec. 13, SE¼NE¼, E½SW¼NE¼, E½W½ SE¼, and E½SE¼, excluding patented lands;
- Sec. 24, E½E½ and E½W½NE¼, excluding patented lands;
- Sec. 25, NE¼NE¼, NE¼SE¼NE¼, and NE¼SE¼SE¼NE¼, excluding patented lands.

The areas described aggregate approximately 374 acres in Pitkin County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Date: June 13, 1989.

Ralph W. Tarr,

Solicitor.

[FR Doc. 89–14513 Filed 6–19–89; 8:45 am]

BILLING CODE 4310–JB–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[Gen. Docket No. 87–24; DA 89–642]

Cable Television Services; Program Exclusivity in the Cable and Broadcast Industry; Technical Amendment and Correction.

AGENCY: Federal Communications Commission.

ACTION: Final rule; technical amendment and correction.

SUMMARY: The Commission is correcting errors, by technical amendment, in the preamble, ordering clause and regulatory text of the summarized *Report and Order* (*R&O*), Gen. Docket 87–24, which appeared in the **Federal Register** on July 19, 1988 (53 FR 27167). The correction to the regulatory text is presented as a technical amendment to the Code of Federal Regulations (CFR), because the codified text of the rule is being corrected after the revision date of its CFR title. In addition, the Commission is correcting errors in the summary contained in the supplementary information section, ordering clauses and regulatory text of the summarized *Memorandum Opinion and Order* (*MO&O*), Gen. Docket No. 87–24, which appeared in the **Federal Register** on March 29, 1989 (54 FR 12913).

EFFECTIVE DATES: The effective date for this technical amendment and correction is June 12, 1989. The effective date for §§ 76.92–76.95 revised at 53 FR 27171 is changed to August 18, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David E. Horowitz, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the *R&O*, the Commission reinstituted syndicated exclusivity rules applicable to cable systems, and modified existing network non-duplication rules. In brief, the syndicated exclusivity rules permit broadcasters to negotiate with their program suppliers for exclusive exhibition rights with respect to syndicated (*i.e.*, non-network) programming carried by cable systems located within certain geographic parameters. Similarly, the network non-duplication rules permit network-affiliated broadcasters to contract for exclusive exhibition *vis-a-vis* cable, but with respect to network programming. In response to various petitions for reconsideration, the Commission adopted the *MO&O*, which amended the syndicated exclusivity rules in certain regards and further modified the network non-duplication rules. The summarized versions appearing in the **Federal Register** of both the *R&O* (53 FR 27167) and the *MO&O* (54 FR 12913) contained errors which are discussed briefly below and are corrected by technical amendment (in the case of the *R&O*) or by this notice (in the case of the *MO&O*).

Technical Amendments to the Summarized Report and Order

The following technical amendments are made in FR Doc. 88–16187, *Cable Television Services; Program Exclusivity in the Cable and Broadcast Industry*, published in the **Federal Register** on July 19, 1988 (53 FR 27167).

1. The information set forth under the "Effective Date" caption of the preamble on page 27167, third column, erroneously included an exception for §§ 76.92–76.95 from the August 18, 1988, effective date. This exception is deleted and the information under the "Effective Date" caption is revised to read as follows: "August 18, 1988.".

2. Under the "Ordering Clause" heading on page 27170, in the third column, in the second full paragraph (numbered 27), lines 1–3, which read, "Accordingly, IT IS ORDERED THAT, under the authority contained in sections 4(i), 4(g), 302, 303(a) and 604 of", are revised to read as follows: "Accordingly, IT IS ORDERED THAT, under the authority contained in sections 4(i), 4(j), 301, 303, 601(4) and 624 of".

Technical Amendment of Program Exclusivity Rules

List of Subjects in 47 CFR Part 76:

Cable television.

Technical Amendment

Part 76 of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

2. Section 76.5 of the rules is amended by revising paragraph (nn) to read as follows: